

**HEALTH COMMITTEE  
OF THE  
SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A regular meeting of the Health Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on Thursday, January 29, 2015 at 2 p.m.

**Members Present:**

***Legislator William Spencer - Chair***

*Legislator Kate Browning - Vice-Chair*

Legislator Rob Calarco

Legislator Robert Trotta

Legislator Monica Martinez

**Also In Attendance:**

*Presiding Officer DuWayne Gregory - District #15*

George Nolan - Counsel to the Legislature

Sarah Simpson - Assistant Counsel to the Legislature

Jason Richberg - Chief Deputy Clerk/Suffolk County Legislature

Elizabeth Alexander - Aide to Legislator Spencer

Michael Pitcher - Aide to Presiding Officer Gregory

Craig Freas - Budget Analyst/Legislative Budget Review Office

Bill Schilling - Aide to Legislator Calarco

Amy Ellis - Aide to Legislator Anker

Katie Horst - County Executive Assistant

Kerri Suoto - County Executive's Office

Zach Viola - AME/Legislative Liaison

Lou-Ann Rinde - The Mediation Project

Joanne Hoffman-Beechko - LIPS/Long Island Pharmacist Society

Rick Ammirati - LIPS/Long Island Pharmacist Society

Ruby Masson - LIPS/Long Island Pharmacist Society

All Other Interested Parties

**Minutes Taken By:**

Alison Mahoney - Court Stenographer

*(\*The meeting was called to order at 2:02 P.M. \*)*

**CHAIRMAN SPENCER:**

Good afternoon. Thank you very much. This is the Health Committee, and I'd ask if everyone would please stand and join me for the salute to the flag led by Legislator Martinez.

***Salutation***

Let us remain standing for a moment of silence in recognition of all those who are serving this country abroad, and also those who have been victims of the terrorists.

***Moment of Silence Observed***

Okay. We have no correspondence, but I do have a couple of cards for the public comment, and I think a couple of more to come. The cards that I have, Lou-Ann Rinde who is representing mental health recipients and would like to address the committee regarding The Mediation Project. Welcome, Lou-Ann. And as per our committee rules, you have three minutes that you can share with us any thoughts that you have and at the end of that time, or whenever you conclude your remarks, Legislators may have questions for you. Thank you.

**MS. RINDE:**

Thank you. Last time I was here you had appointed me to the Community Division of Mental Health & Hygiene Advisory Board, and it is, you know, that big, long name of Mental Health & Hygiene Disabilities and Alcohol & Substance Service Planning Board. I since am also now on PAIMI, Protection and Advocacy of Individuals with Mental Illness Advisory Board and have been serving also on the Mental Health Subcommittee Board.

I do not wish to create more bureaucracy. I am learning in regard to the powers at be and how to go about things. I have not brought these issues to any of those boards. However, The Mediation Project, to whom I was serving as the SPA Mediator for those in mental health housing, I have recently resigned for ethical reasons with the recent merger. The contract is now held with a housing agency. I feel that it is contradictory to having a neutral party in mediation. And also, it was misrepresented on the County service plan that mediation does investigating; it does not. The object of mediation is to help both sides be able to communicate to resolve their issues. It does not do a thorough investigation, or investigating in terms of looking at documents and reporting in an investigating fashion, and so those are my concerns.

To my knowledge, the previous contract had a year that was remaining with a new merger. I do know they have discussed things. I don't know what they have reached a decision. I have spoken on the County, I have also spoken in Albany concerning that and I know that contracts will be coming out, you know, shortly. And I really want to stress that I think The Mediation Project is very important to be continued. However, I do not think that it should be continued for another three years with a housing agency. I have been told that there is no legal precedent for my concerns, that the money comes -- Suffolk County does not contribute money, but the State does, and that it is given to the County and that the County gets to decide what they're going to do with whatever funds and they have decided for mediation. I would like The Mediation Project to continue, but for it to be in a neutral, objective party. A housing agency either has had, will have or does have conflicts, any housing agency will have problems, it will not be able to be -- it will contradict, it will not be able to be seen as an objective, neutral party.

These are my concerns. I don't know whether or not some legislation can be developed so that it becomes a legal precedent that it would not be with a housing agency and that it would be with a neutral party. People are hesitant enough to come forward to have mediation, they would be all the

more concerned if it was in a housing mediation -- a housing agency's hands; and on the other side, in terms of investigating, can also cause people to be very concerned. That's my time, I believe.

**CHAIRMAN SPENCER:**

Yes. Do you have a question? Legislator Browning.

**LEG. BROWNING:**

I'm sorry, I missed part of what you were saying. So the housing agency for people with mental health issues, they're we're providing the housing, but they're not necessarily providing all the services needed? And who's -- okay. And I guess is there an issue with them being audited or checked to make sure that they're doing what they're supposed to do?

**MS. RINDE:**

Well, there are many housing agencies. One housing agency, with this new merger, now holds the contract, I believe. And it was previously with the Mental Health Association of Suffolk and that was not a housing provider. Now, with a new merger, it is -- they do provide housing, and so it's a contradict -- a conflict, were a housing agency, I believe, to have the contract.

I was advised that I would have to recuse myself from their problems with their individuals and an agency, but I think that it would cause a problem for any agency, any housing agency of SPA housing, Single Point of Access housing, to hold a contract.

**LEG. BROWNING:**

Okay. I think we have your contact number, because -- I mean, obviously I'm working on the sober home issue, which mental health we do have a representative. I know there's nobody here from the Health Department in the Mental Health, I don't believe, in the room today.

**MR. FREAS:**

I'm sorry. Through the Chair, which -- what's the particular agency? I can look at some of the information in the contract agency database and see if -- just so that we understand a little better.

**MS. RINDE:**

It was previously with the Mental Health Association of Suffolk, Inc., and now with the new merger, it's the Association of Mental Health -- the Association for Mental Health and Wellness.

**MR. FREAS:**

For Mental Health and Wellness? Thank you.

**MS. RINDE:**

Thank you.

**LEG. BROWNING:**

Okay. I think it's going to take more time than three minutes.

**MR. FREAS:**

Absolutely.

**LEG. BROWNING:**

It's going to need a lot more conversation than that.

**MS. RINDE:**

I look forward to speaking with any of you in regard to that, and I believe I've made an appointment with Dr. Spencer.

**CHAIRMAN SPENCER:**

Yes, I'm looking forward to being able to speak in more detail, but I do appreciate you coming forward and getting your concerns on the record. We'll look forward to addressing your concerns and looking for potential things that we can do to address them. Thank you.

**MS. RINDE:**

Thank you very much. Thank you for your service to our community.

**CHAIRMAN SPENCER:**

Thank you, that's very kind. Next speaker is Rick Ammirati. I also -- there are a two other cards from Joanne and Ruby, but they are our formal -- is Rick going to come up with you and present?

**MS. RINDE:**

We're all speaking together.

**CHAIRMAN SPENCER:**

If you're all speaking together, then you don't have to go to the podium because you get to make a formal presentation. You have a lot more time, you each can speak, so there's no reason for you to have a card, you're not constrained to the three minutes. I will get you off after 15, 20 minutes, though. (*Laughter*).

But thank you. I appreciate you all being here. That's all the cards that we have. Is there anyone else that wishes to be heard today? Is there anyone else that wishes to be heard? With that, I'm going to close the public comment portion.

So we do have a formal presentation, but our -- we're going to do our agenda because we have four Tabled Resolutions and that will just take us two minutes and then we'll be able to move right on to our presentation. So I'm going to move on. Mr. Clerk, are you ready?

**MR. RICHBERG:**

Yes, I am.

**CHAIRMAN SPENCER:**

Okay, fantastic.

**Tabled Resolutions**

***IR 1736-15 - Adopting Local Law No. -2014, A Local Law to ban the sale of personal care products containing microbeads in Suffolk County (Hahn).*** I make a motion to table for a public hearing, it's till open. May I have a second?

**LEG. MARTINEZ:**

(*Raised hand*).

**CHAIRMAN SPENCER:**

Second by Legislator Martinez. All those in favor? Opposed? Abstentions? ***Motion is tabled (VOTE: 6-0-0-0 \*\*Including Presiding Officer Gregory\*\*).***

**Introductory Resolutions**

***IR 2165-14 - Amending and improving the Parks Rx Advisory Committee (Hahn).***

This still -- actually, this is able to be approved. I'll make a motion to be approved.  
Do I have a second?

**MS. MARTINEZ:**

Second.

**CHAIRMAN SPENCER:**

Second, Legislator Martinez. All those in favor? Opposed? Abstentions? The motion is approved  
**(VOTE: 6-0-0-0 \*\*Including Presiding Officer Gregory\*\*).**

***IR 2174-14 - Adopting Local Law No -2015, A Local Law to warn consumers of the dangers of liquid nicotine products (Anker).*** This has to be tabled for a public hearing. I'll make a motion. Seconded by Legislator Trotta. All those in favor? Opposed? Abstentions? Motion is tabled **(VOTE: 6-0-0-0 - \*\*Including Presiding Officer Gregory\*\*).**

***Ir 2176-14 - Adopting Local Law No. -2015, A Local Law to protect children from exposure to toxic chemicals ("The Toxin Free Toys Act")(Hahn).*** I'll make a motion to table for public hearing. Seconded by Legislator Browning. All those favor? Opposed? Abstentions? Motion is tabled **(VOTE: 6-0-0-0 - \*\*Including Presiding Officer Gregory\*\*).**

And ***IR 1010-15 - Requesting Legislative approval of a contract award for Fitness for Duty Psychological Services for the Department of Health Services, Division of Patient Care Services (County Executive).*** Does anyone make a motion? Legislator Browning makes a motion to approve. Seconded by Legislator Trotta. All those in favor? Opposed? Abstentions? **Approved (VOTE: 6-0-0-0 \*\*Including Presiding Officer Gregory\*\*).**

That's all I have on the agenda. So I'm now going to go back to our presentation and I'd like to invite Joanne, Ruby and Rick to come forward, three chairs in the center here, there's a microphone. Please, when you're speaking, there's one mic that if you press it will stay on. But they are representing the Long Island Pharmacy Society and they have -- they're here to address a very concerning issue that we should all be aware of and I've asked them to come and present to us today.

So, welcome. Joanne, thank you for being here. So what I was hoping you could do, if you wanted to just introduce yourself and your colleagues who are with you. If you have a formal presentation or if you have statements, but we'll try to keep it to about 15 minutes and then we'll have some questions for the Legislators. Okay? So thank you for being here.

**MR. HOFFMAN-BEECHKO:**

Terrific. Can you hear me?

**CHAIRMAN SPENCER:**

Absolutely.

**MS. HOFFMAN-BEECHKO:**

Okay, good. I actually did, we did make a formal presentation, five minutes each so we can stay within our realm. So I may, in fact, read directly from here and just look up every occasionally so that I stay within that timeframe.

## Health Committee - January 29, 2015

I want to thank you for allowing us to speak here. We've met with many of you personally over the past many years. My name is Joanne Hoffman -- Beechko and I'm the Chairman for the Long Island Pharmacist Society, which is an affiliate of the State Society, PSSNY, the Pharmacist Society of the State of New York, which is a volunteer organization which represents pharmacists throughout the State.

I also own RX Express Pharmacy of East Northport located in Huntington; it's a long story. We are all owners here of community pharmacies here in Suffolk County, but we represent all of the pharmacists and pharmacy personnel that provide services to the community directly. Face to face throughout New York State, and particularly the members of the Long Island Pharmacist Society. There are 663 pharmacies in Nassau and Suffolk County; I got that number from the State Society just the other day. Nassau and Suffolk, 663 pharmacies which include independent stores, community stores, hospital pharmacies, etcetera, long-term care facilities, etcetera.

You asked us to present the issues affecting our organization and the profession and how the Legislature can be of help. Well, the issues are enormous and the abilities of your committee and the Legislature may be restricted. So hopefully in the next 15 minutes we can hone in on what we think is crucial to the community, to the continuity of community pharmacy practice and what's best for patient care and outcomes for the citizens of Suffolk County. I've handed you a lot of papers, the top of which the 2014 issue statement for the ERISA Advisory Committee, in my opinion, is the most significant informational piece that you may be able to use to assist us on a local level in setting precedent, Suffolk County setting precedent, as far as I know, if we can come to develop a bill that will -- and this is going to take attorney and Legislative minds to enact, and my associates will help you to understand this more.

In brief, I'm going to explain some terminology and my associates will go into more detail as to how the current state of affairs affecting our businesses and the public.

I'm going to use some simple examples for each definition. And if this is repetition, for those of you that I've met with, I apologize, but I think it's important for all the Legislators to understand because the health care system and pharmacy is very complex. As a matter of fact, as a quick aside, listening to NPR News on the way in today, there is a wonderful book currently out called *America's Bitter Pill* and it completely defines what is going on in this country right now all the way across, from medical, pharmacy, everything, which I advise you to listen to the podcast if you can, *America's Bitter Pill*, NPR.

So a PBM is a Pharmacy Benefit Manager, which is a middleman entity that originally was developed to be the processor for all prescriptions being filled by community pharmacies for a small administrative fee. This has dramatically changed over the past decade into an entity which controls 90 to 95% of all prescriptions dispensed and is an unregulated health care entity operating outside of all State laws. Without naming names, one such PBM creates and sells its contracts to payors, such as Suffolk County or Suffolk County unions, EMHS, and determines that the patient's copay, let's just say within the pharmacy parameters, a patient's copay for a generic drug is \$15. This a signed contract with the insured. At the same time, a separate contract is signed upfront by any pharmacy that wants to provide services to the members which indicates a designated allowed reimbursement rate set by the PBM -- one for brands, one for generics -- called map -- the generic pricing is called MAC pricing, I'll go into that in a minute, and this is unnegotiable. So this separate contract is a contract for the consumers and there's a contract for us. The contracts are a little more involved than that, but that's generally the gist.

When processing a particular claim through adjudication, the pharmacy receives an indicator that it's going to be that we should charge the patient a certain dollar amount, say \$15, and upon -- the pharmacy itself is going to be paid \$8.23. So we're charging the patient a \$15 copay and then the

PBM will take back from us \$6.77, and this is based on the PBM's determination that the cost of the drug is less than the copay already contracted with the consumer and that that cost is all that we're entitled to plus a 45 cent dispensing fee; okay, 45 cent dispensing fee for what we do. This payment is unappealable, okay, so the patient pays 15, then they take money away from us. That's a PBM, that's part of the PBM management.

What is MAC pricing? I can go on for hours, so I'm just going to give you a brief focus. What is MAC pricing? MAC pricing is Maximum Allowable Cost for a generic drug, and this is supposedly based on market availability for competing generic houses. As you may be aware, there's much variability, not only among manufacturers of drugs and wholesale contracts, but also regionally across the country and has been written about recently and is under review Federally. Generic pricing has taken a ridiculous turn upwards. These MAC prices do not change effectively with market change, as the PBMs are not regulated to make these changes in a timely manner. For example, a prescription for an old heart medication, Dijoxin, is presented in the pharmacy. The drug went from \$77 a bottle of a thousand tablets on a Tuesday to \$909 for that same bottle on a Wednesday. The pharmacy processes the claim after the price change and it takes many of the PBMs an unregulated amount of time to make the adjustment in pricing. So any pharmacy that did not have some of the old product at the old pricing had to buy a new bottle for more than ten times the amount of money that would be reimbursed to the pharmacy; this is unsustainable.

Another example, Xanax, a medication very commonly used to calm anxiety, has been available as a generic for a long time, Alprazolam. This particular generic is very inexpensive, but is one of the controlled substances that is closely monitored for its abuse potential. As you know, the I-STOP Program has been in effect since August of 2014, I believe, right, and has been working wonders, truly wonders to stop doctor shopping. These drugs have always required the pharmacist's extra vigilance, but now even more so, thankfully because we are available to -- we can get into the BNE, the current BNE system and ensure appropriate use.

For all our labors and protection of the public, we are MAC paid, MAC paid, maximum allowable cost paid 40 cents for the cost of drugs, say 30 tablets, plus a dispensing fee of 45 cents, for a total of 85 cents for the management of this prescriptions, total money coming into the pharmacy for that drug.

I'm going to turn this over to my associates, and I hope that by the end you'll want to work with us to develop laws here in Suffolk County which will protect the public, offer them continued local and preserve our businesses. Thank you.

**MR. AMMIRATI:**

Good afternoon, Chairman Spencer, Members of the Board, Legislators, good to see you all again. My name is Rick Ammirati. First and foremost, I always like to say when I speak that I am the sitting President of the Holbrook Chamber of Commerce for the last 16 years. So I know I've met a lot of you over the years working with Legislator Lindsay. Thank you.

And just to give you an idea of what, you know, some community pharmacies do for their towns and how they provide, and my pharmacy obviously really steps out there. And I'm not one to generally boast or look for any glory, but I thought it was important to you Legislators all working at your chambers to know how important that is. I also own Friendly Drugs. We're a community pharmacy, we employ over 20 people. We've been in business now for 40 years. I have been there 30 and I've owned that company for 20 years.

Chairman Spencer, I want to recognize you first and foremost. Thank you for reaching out to us and inviting us here today, it means a lot. I had the distinct pleasure of dealing with Legislator Lindsay who's actually my next door neighbor at the pharmacy, his district office. He was in today taking care of some needs for his Mom, Pat Lindsay, and he -- I had mentioned I was going to speak before

you and he said that you're the right guy. You're a very knowledgeable doctor. And also, I'm glad to hear that you have a good heart for small businesses and a very good business acumen in general. So they have the right person chairing this committee, and I want to thank you for that and recognize you for that. You deserve applause for that.

*Applause*

**CHAIRMAN SPENCER:**

Thank you very much. I really appreciate that.

**MR. AMMIRATI:**

Thank you. You need to be recognized. I was requested to speak again today. I spoke back in last April by the LIPS, Long Island Pharmaceutical Society, and I want to hopefully articulate, as quickly as possible, some of our concerns with respect to pharmacy within our County. My co-speaker Joanne has already articulated some and Rudy will speak as well, on the brass tax and specifics of MAC pricing, the mail order issues. I'm going to speak more of the emotional part of the business end, also how much we're needed in the community.

Most of you know or have probably heard surveys; pharmacists have, time and time again, been recognized as the most trusted profession in the country; that's well substantiated, you can look that up. So that's good to know as well. We come here with good hearts good intentions to do right by not only your constituents but all the residents of Suffolk County and the surrounding communities.

There are close to 300 pharmacies in Suffolk County alone. Most of them on the average employ ten people, so that's 3,000 jobs here that we're talking about. And an 85 cent fee on a Xanax prescription while losing, you know, 90% of the profit on a drug -- or 90% of the cost on the drug I should say, I never made 90% profit -- 90% of the cost on the drug, you can see how quickly 3,000 jobs could be in jeopardy.

You know, I know everybody is used to seeing a CVS and a Rite-Aid and a Walgreens and a pharmacy on every corner, it's true. But however, in order to remain competitive, we need to level the playing field so not only the chains but also the independents. I'm not here to debate that either way, I support both, naturally.

So with that saying, clearly I don't see a person -- I'm sure there's not a person on the Legislature that hasn't had to utilize the services of a pharmacy or a pharmacist, either for themselves or for a loved one. Most, if not all of you, recognize the value. I actually got a call yesterday from Legislator Muratore's Office, Bob Martinez, his assistant, wanted to call because I know they're looking to enact legislation regarding narcotics for out-of-state prescriptions being filled within Suffolk County, there's some concern about transferring those prescriptions. So he just wanted some background data. The point being is that it is good to know that, you know, they know to reach out to us as a resource. And at the same time, it was nice to speak to Bob a little bit about the Well-Dyne Plan that you currently have, not to mention any names -- strike that. But the plan that the County is currently using to deploy their medications, he did also say how he missed his local pharmacy and dealing with his pharmacist on a one-on-one basis and felt that it would be nice to see the money kept in the district; that's how he always felt. So I thought that was important hearing that from an employee who is reaching out to a pharmacist for some answers on an issue that's currently presented before the Legislature. Again, just an added value that we bring.

Moving along, one of the things we'd like to be involved with, if possible, is to be on a panel. You know, people are always quick to come and see us for advice and come and ask questions. We're very knowledgeable, professional people, we would like to be involved in the health care panel, involved on some of the decision making that goes on with respect to the pharmacy plan that you

choose, and/or perhaps, you know, any questions you may have about drugs, interactions and all.

My ask today, on behalf of the Long Island Pharmaceutical Society, is for the board to consider writing us a letter where we can have the pharmacist become -- yeah, become recognized as a provider, health care provider. We are currently not, which really I think is very disappointing and I think very remiss on behalf of our local and state governments that we're not at the table in these decisions. We're the front line. Any good General will always want to communicate with those on the front line of his military, because they're down there, we're on the battlefield dealing with the people and making sure they're compliant.

Currently in this country, non-compliance of medications is at a rate of over 70%. If people are compliant on their medications, it will reduce the amount of chronic illness that are related from their issues and reduce hospitalization as well as unnecessary and expensive surgeries. We can nip it right in the bud in most cases. Okay, there's always exceptions, but quite frankly, by giving the pharmacist that authority to monitor and do what they call MTN, Medication Therapy Management -- I know we live in a world of acronyms, but that's another one, MTM. Obviously, you know, we need to get paid for that and there needs to be a reasonable fee discussed. So basically, that's our task, to be -- receive a letter of providership. We will obviously sit down with the Chair and speak a little bit more about that, it will be necessary. So please consider that. It will be great.

And just in closing, you know, I did have the opportunity to speak with Noel DiGerolamo who is charged with making the choices on the prescription plans, and one of the things I had spoken to Noel, I said, *"You know, in the future we'd love to be involved in some of these decisions because, you know, I have a saying, "I'd rather be at the table than on the menu."* He liked that saying. He asked me if he could borrow it and I said, *"Only if I like what you're cooking and you invite me to sit at your table."* Thank you.

*(\*Laughter\*)*

**CHAIRMAN SPENCER:**

That's great.

**MS. MASSON:**

Good afternoon, everyone. And thank you, Chairman Spencer, for inviting us here today. My name is Ruby Masson, I'm the owner of Bell Mead Pharmacy in East Setauket, and the Vice-President of the Long Island Pharmacist Society and active member of PSNY, our State Society. We had met with you, Chairman Spencer, and Chairwoman Kate Browning last November and had discussed PBM activity, most of which Joanne has covered. But at the time we had also discussed the issue of the spending results of the audit against Express Scripts, the PBM contractor to deliver prescription benefits for Suffolk County employees in 2015. The PBM had promised a savings of \$17 million; however, it was found that the number of prescriptions filled by the mail order pharmacy increased from 10,000 to 90,000 within a three-month period, that is 80,000 more prescriptions were filled than before while the number of employees had decreased.

I urge the Health Committee to research further into this audit, since the results of which are imperative to unravel how PBMs work and the unfair practices. It seems evident that mail order pharmacies may not be the cost savers that they would like you to believe. Multiple dollars are lost in drug wastage when you realizing mail order pharmacies caused by early or unwanted prescription refills, even when a prescription may be discontinued or ongoing drug deliveries to diseased patients. Patients often end up paying more out-of-pocket when drugs are not delivered on time or not stored in proper conditions, or because the prescription was not updated to a new dosage. One can only imagine the immense possibilities of med errors and adverse effects due to drug hoarding, resulting in hospital visits and increasing health care costs in the long run. The benefit to the

County of including pharmacist expertise on the County panel, as stated by Rick, is unsurpassed when choosing and contrasting with a PBM and ensuring transparency.

It has recently been brought to our attention that the Employee Health Benefit Plan intends to include independent pharmacies in the networks. Pharmacy drug reimbursements are currently based on a pricing indicator known as the average wholesale price, or AWP. Suffolk pharmacies can join the network provided we agree to accept a reimbursement rate for a 90-day supply on brand drugs at AWP minus 24%; and for generic drugs, AWP minus 78%. These rates are totally unacceptable and unsustainable for a local independent pharmacy. We are not able to purchase drugs for the same low discount that mail order pharmacies do. At AWP minus 24%, we are far low our actual acquisition cost. It seems this offering is trying to fulfill the provision of any willing provider in name only and not in reality. If accepted, you will soon see a lot more independent pharmacies closing their doors in Suffolk County, resulting in loss of employment, loss of tax dollars, a loss in revenue to other states where the mail order pharmacy exists. We must do all that we can to keep Suffolk dollars in Suffolk.

I am closing -- I am closely working with Stony Brook University Hospital which has been designated as the performing provider of symptoms in Suffolk County for the DSRIP initiative taken on by New York State; the DSRIP -- i.e., the Delivery System Reform Incentive Payment Program. The primary goal of DSRIP is to reduce avoidable hospital use by 25% over the next five years. Through restructuring the health care delivery system into a collaborative provider system. Payment methodology will be changed to a value-based payment model where a provider's performance will be measured against patient outcomes for payment. The DSRIP project objective heavily depends on utilization of community-based pharmacies. Please refer to the handout that did get passed to you guys. Multiple studies, and more recently the National Governors Association in their recent paper stated, *"Studies of pharmacists providing medication therapy management services to improve therapeutic outcomes indicate that such services can improve outcomes and reduce costs."* It has also been shown that at least 30% of emergency room encounters and hospital admissions are due to medication-related problems, such as med errors, adverse effects, medication non-adherence, lack of medication self-management or lack of education. It is more critical than ever to ensure the authority of pharmacists as health care providers and the sustainability of the local pharmacies so they can be engaged to achieve DSRIP Project objectives for Stony Brook Hospital in Suffolk County, and in the State of New York as a whole. About 75% of all physician visits result in a prescription for medicine. Making pharmacists the frontline providers who can effectively produce healthy outcomes and reduce healthcare costs at the same time, keeping Suffolk County ahead in every essence.

In conclusion, we sincerely hope the Health Committee will work with us, your local independent pharmacies and your constituents to provide for better PBM regulations to include transparency, fair MAC pricing, levelled playing field allowing for patient access and choice. Your endorsement to CMS to include pharmacists as health care providers will be much appreciated for the future of our health care system.

Lastly, please help expedite the pending Express Script audit. Thank you all for your time and the opportunity to speak. Thank you.

**MR. HOFFMAN-BEECHKO:**

Just in conclusion, I think you can see that we're all impassioned participants in Suffolk County health care. And it behooves you, and I'm glad to recognize that there is a Counsel here as well. All of the audits, the contracts, etcetera, are all very complex and they need to be defined, diagnosed, dissected in order to ensure the safety and the increased health of the community. So we are asking for you to, A, perhaps write a letter for us to be considered health care providers, that would be a first if Suffolk County would do that; B, perhaps create and work with us to create a law in

Suffolk County, a bill, present a bill regarding transparency, for BPM transparency and MAC pricing and audit control for Suffolk County contracts; and C, to bring us on to committees so that we can help in these decisions. And we all thank you very much for your time.

**CHAIRMAN SPENCER:**

Wow. Thank you. That was, you know, really a very informative presentation and each time I learn a little bit more. I looked at this -- I'm also the President-Elect of the Suffolk County Medical Society, we're also looking at this issue, looking at passing a resolution within our house of delegates and bringing it to our State Medical Society, the State of New York, to also work there.

I guess my first question to the letter that you're looking for, you're looking for a letter from the full Legislature and you would like this to be sent to CMS.

**MR. AMMIRATI:**

*(Shook head yes).*

**CHAIRMAN SPENCER:**

Okay. And George, on behalf of this committee, is this committee able to generate correspondence to? I mean, I can work on the all 18, but can the Health Committee, if there's a letter that we could pose, we're able to send out correspondence?

**MR. NOLAN:**

The committee can send that letter if they so choose, sure.

**CHAIRMAN SPENCER:**

Okay. I have several questions. And just to try to make sure that I understand this, you mentioned the ask in terms of writing a letter. So as I understand it, when we talk about an unlevel playing field, the Pharmacy Benefit Managers, they are empowered because they're hired by the insurance companies and also the organizations that are wishing to provide health care for their members, which is like Suffolk County. Has the pharmacy society considered forming your own PBM, or is that just too large of a process? I mean, how do they -- you know, are you able to negotiate or contract together, or are you prohibited from being able to do that? Is that something that is a possibility? These benefit managers, where do they come from, I guess I'm trying to figure out, and how did they get so much power? I know a little bit of the answer to this, but I'd love to hear your answer.

**MR. HOFFMAN-BEECHKO:**

That's a complex question. PBMs, some of the PBMs that you may be aware of are Express Scripts, Optum Rx --

**LEG. TROTТА:**

What is PBM?

**MR. HOFFMAN-BEECHKO:**

Pharmacy Benefit Manager. As a matter of fact, I know we gave you a lot of papers, but within there is an explanation from the NCPA which is the National Community Pharmacist Association that will define specifically what a PBM is. And a Pharmacy Benefit Manager, as I had said, was originally designed to just handle all the prescription claims, originally about 20 years ago, 15, 20 years ago, to just handle the claims that were coming through to the insurer from the pharmacies, handle it, charge a small fee, make sure that the drug electronically went through to the insurer, came back to the pharmacy that the insurer was covered, and then gave us our payment, handled the money flow, told United Health Care, *"All right, you need to send this amount of money for these drugs to this pharmacy or this hospital,"* etcetera, etcetera, etcetera. But over the years, they have become this entity where they create their own contracts, they make negotiated deals with pharmaceutical

companies for rebates; there are all kinds of behind-the-doors negotiations that go on. And they are not regulated by anybody; they're not regulated by the insurance department, they're not regulated by any small business laws, they're not regulated by anyone. So they are an entity unto their own. All the papers that I gave out to you, there's lots of papers there which can explain what they are. And if you have further questions, I mean, you could always ask us, you could contact NCPA, there's plenty of information on PBMs out there.

**CHAIRMAN SPENCER:**

I'm going to yield to Legislator Trotta, he has a few questions. Because I have a lot and I wanted to just drill down, so go ahead.

**LEG. TROTТА:**

I just want to get this straight, I'm sort of new at this. You're small, privately-owned pharmacies, and according to this letter, what I'm reading is that when the County switched over to this mail-in thing, we were supposed to \$17 million. That killed your business. And you're saying, well, a lot of those prescriptions probably aren't being filled or not being used, it's unnecessary, so you should really be able to fill those prescriptions; is that sort of what you're saying?

**MS. HOFFMAN-BEECHKO:**

What we're saying is that before that contract was signed, Suffolk County residents were able to use any pharmacy that they chose within Suffolk County, the businesses in Suffolk County.

**LEG. TROTТА:**

Employees you're talking about.

**MR. HOFFMAN-BEECHKO:**

Suffolk County employee residents, right, or Nassau residents or whomever, correct. Once that contract was signed, they are forced to use mail order pharmacies.

**LEG. TROTТА:**

And you're saying that's not saving the County any money.

**MS. HOFFMAN-BEECHKO:**

It did not -- well, the audit -- the audit, which is -- I don't know if you ever received the audit back, but it did not save the County money. In fact, it cost the County money with less prescriptions -- less number of employees. It cost the County money. We presented before the Comptroller's Office and many people about a year ago, and said when the letter came out in Newsday --

**LEG. TROTТА:**

I saw it.

**MR. HOFFMAN-BEECHKO:**

Okay. When that letter -- when that came out in Newsday. We met with the Comptroller's Office and other members and said, "*We can tell you why, why these costs have gone up if you show us what the report is from the audit as to what prescriptions were being filled, why they were being filled,*" etcetera, and we can still do that. There are lots of things that can cause drug costs to go up that may or may not be necessary.

**LEG. TROTТА:**

Like if you're getting something on a reoccurring revenue and you're not using it.

**MR. HOFFMAN-BEECHKO:**

I'll give you an example. A branded drug, Crestor, one of these -- a branded drug is \$800 or more for a 90-day supply, and you are allowed a certain amount of time to fill that on a 90-day time.

So if a mail order company fills a prescription drug at the 70-day mark, you will get five fills of that Crestor within a year, so that's an additional -- this is very simple, an additional \$800 per patient that you're going to pay because that one prescription was filled five times in a year instead of four; that's just one example.

Another example is that prescriptions are sent from doctors and the dosage has changed, but if the mail order company has already sent out the previous dose, that drug now is being charged to the County. If a patient walks into my store, I say, "Well, Mrs. Smith, do you know that the doctor wrote here 10 milligrams and not 20 milligrams," and she says, "Oh, no, it should be 20 milligrams." I say, "Well, let me contact the doctor," we fix it and it's done, there's no extra expense. So there are -- and I can go on and on and on. When we were at the Comptroller's Office we went on and on and on, and we're still waiting to see the audit report. Why did the costs go up? Was it defined why the costs went up? We haven't seen it. We're asking the Legislator to make sure they understand the audit and why the costs went up.

**CHAIRMAN SPENCER:**

We have that meeting on February 3rd, so since we -- well, I just wanted to let you know. Maybe I had you present one week too soon, but it's going to happen.

In any case, I do see specific issues with regards to what we are doing here with our own employees, that there might be some things that we should look into. But overall, can you give me examples, potentially around the country, where other municipalities have maybe passed the FEG legislation that have leveled the playing field? I know we were talking a little bit about that in my office. If there was -- if you had a wish list -- I was looking at the issue with regards to -- and I'm trying to -- Counsel, a lot of times when we discuss these legislations, it's really trying to decide what have jurisdiction over and what's State versus what we can do.

But looking at our departments with the Consumer Affairs and things of that sort. It's my understanding, and you can help just clarify this for the rest of the committee, that these Pharmacy Benefit Managers, they negotiate directly with the manufacturers two of particular drugs and they'll negotiate a discounted price, and they a lot of times will keep that discounted price for their own mail order houses, but they won't -- they'll charge you a higher price and they keep the difference and they don't -- so there's some sunlight laws where they don't disclose that there is a discounted rate or what their rate is and there's a differential there. Now, is that differential -- you can say, well, that differential is part of them collecting the fee, but the unlevel playing field is when they use it -- it's a conflict when they use it for their own mail order houses, but they don't allow you to participate in that discount that they're enjoying for that particular product. And have other states taken action, have other counties taken action, and did I explain it correctly?

**MS. HOFFMAN-BEECHKO:**

Yes, you explained it perfectly. That is one of the things that is going on with the PBMs. Across the country there are a lot of states that are now trying to enact laws. I actually spoke with the Senior Executive for Government Affairs at NCPA, National Community Pharmacist Association, yesterday. And from his perspective, there is no local legislation that has yet stepped forward, local County legislation that has yet stepped forward to initiate something of this nature for local community County employees. So this would be a first.

As far as Statewide, there were a lot of pieces of information given to you, but also you were sent electronically, I believe, an entire report that lists all of the different legislative actions from 2012 to 2014, and the NCPA State Legislative Update. So there are many, many states that are trying to move forward with all of this. There's lots of action across the country. It's slow, it's tedious, it's legal, it's a very difficult run. So to answer your question, yes and no. I can't point to any specific legislation that I would like us to mimic here, which is why Counsel becomes so important. I mean, if we decided to move forward with this with a County bill, I would certainly reach out further to find the very best bill that we think we could use on a County level to start this action.

**CHAIRMAN SPENCER:**

No, that's -- I appreciate that and I am very -- I'm motivated, to say the least, to address this issue and have had several intense conversations. Any of my colleagues have any questions for the panel while they're here?

**LEG. TROTТА:**

I have one real quick for Dr. Lipp.

**CHAIRMAN SPENCER:**

Okay. Legislator Trotta for Dr. Lipp.

**LEG. TROTТА:**

Have we saved \$17 million using this? Have we saved any money doing this?

**MR. LIPP:**

Okay. So first of all, the Employee Medical Health Plan is one that has -- as I'm sure you had basically stated, is the one that is making the determination that they wanted to do mail order. There's an agreement with all of the bargaining units or unions that there's supposed to be a savings of 17 million a year starting in 2013. On or around the beginning of June this year, the Employee Medical Health Plan's consultant, Lockton, will be making the determination whether or not the 17 million per year was actually received.

What's being discussed here is early on there were a lot of missteps, I don't claim to know what happened or how they might have rectified them. But to some extent, they have been rectified and they went from one PBM to another. So I don't really think we could say -- I know we cannot say until mid-June whether or not the 17 million per year for two years, 2013 and 2014, is partially, fully or maybe even in the negative; that will be determined by Lockton.

At the end of the day, one interesting thing about this whole conversation is one of the biggest issues possibly for this year budget-wise could simply be that. If Lockton says that we didn't save a dime -- which I have no idea, I assume that we have saved money -- then it would be 17 times two, or \$34 million that, in theory, the bargaining units would have to find other ways of reducing health care costs for pharmaceuticals, which is beyond me how they would do it.

Conversations that I've had with the head of the Employee Medical Health Plan -- just sort of brief conversations, nothing in-depth -- is that there have been some savings overall in various aspects like for Medicare with {egg whip} and that they've turned around some of the problems with the pharmacies. But once again, we really don't know what sort of savings or not until Lockton does its report on or around June of this year.

**LEG. TROTТА:**

So --

**MR. LIPP:**

So that being said, if you want to consider writing a letter of any kind, I would suggest that you get a better from all the parties involved; Employee Medical Health Plan, maybe you could ask Jeff Tempera if he wouldn't mind bringing down Lockton to talk to you guys. It might be premature now, since they haven't done the look-back yet. So there are a lot of complex issues here.

And lastly, in theory, it's supposed to be a significant savings to the County's budget, that is 17 million a year which will be determined by June. But yes, it is true also that by doing mail order, as a leakage out of the local economy which we estimate to be probably \$25 million directly and about \$38 million indirectly.

**MR. AMMIRATI:**

That's substantial.

**MR. LIPP:**

But there is two things you need to know in life; there's the economic impact and there's the budget fiscal impact. Even though there's a problem, as I just stated, with economic impact, that doesn't translate into savings for the County. We would then have to figure out how we would make up those lost savings to the extent that there are.

**LEG. TROTТА:**

Why don't we know if we saved money already? 2013 is over.

**MR. LIPP:**

Because the way the agreement was written between the County and the bargaining units is they would do a look-back every -- at the end of the two years. So we just finished the second year, 2014, and that look-back requires a little time because you've got to get the final year-end numbers in and Lockton has to do their analysis.

**LEG. TROTТА:**

So no one -- in a whole year, no one looked at '13 and said, *"Hey, how's this going?"*

**MR. LIPP:**

Well, they did see that -- as they were saying, the speakers here, as they were saying that for initially there was actually an uptick in filling prescriptions which had an adverse impact. But supposedly, and I don't know to what extent it's true, they've taken care of that misstep and they hired a new PBM.

**LEG. TROTТА:**

Who runs that? Who in the County is in charge of --

**MR. LIPP:**

Making these decisions?

**LEG. TROTТА:**

This program, yeah.

**MR. LIPP:**

The Employee Medical Health Plan which consists of, I believe, each member of -- one member from each of the unions, and then there's I believe nine from the Administration. Budget Review Office, on behalf of the Legislature, has a non-voting seat on that committee. So we send somebody, either myself or another member of my staff, to those meetings, but we have a non-voting seat.

**LEG. TROTTA:**

So we conceivably could be \$34 million in the hole here?

**MR. LIPP:**

Yeah, but it's hard to speculate. According to my brief conversations with the head of the EMHP, they don't seem to think that's the case, though. But they couldn't really say until the look-back is done and then we see what's going on. I think -- so that conversation really is premature, we'd have to wait til probably June.

**LEG. TROTTA:**

Why do we have to wait til June?

**MR. LIPP:**

Because that's when the agreement says the analysis should be done.

**LEG. TROTTA:**

What agreement?

**MR. LIPP:**

The agreement between the Administration and the bargaining units to save \$17 million a year. There's also more to that agreement, too; there's the inflation factor, looking at all of EMHP, hospitalization, etcetera, that is all-encompassing, not just pharmaceuticals. This is a very complex issue on a lot of levels.

**CHAIRMAN SPENCER:**

The other question, just to the representatives here from the Pharmacy Society; if a patient gets their prescription from you -- and some patients have complained, *Well, I have to go to the mail order because if I fill it with the mail order my copay is \$15, but if I fill it locally they're going to charge me \$150.* Does the insurance company make that, or the Pharmacy Benefit Managers can unilaterally cause that discrepancy in cost to the patient by not using their mail order service? Are they doing that? They're driving that, too, where they're passing on increased costs to the patients to penalize them for using a local pharmacy?

**MS. MASSON:**

It is the insurance company. The PBM currently, Suffolk County employees can only get a 21-day supply at retail in a local community pharmacy, and they can get that for two fills and then they're mandated to use mail order. If they choose to fill at our stores, they have to pay totally out of pocket cash; it's not covered at all.

**CHAIRMAN SPENCER:**

So that really is -- they're administering -- there's a direct conflict there, and then they're directing, forcing business to enrich themselves.

**MS. MASSON:**

Absolutely.

**CHAIRMAN SPENCER:**

But they're supposed to be managing it for everyone. I mean, I think to me, that seems like --

**MS. MASSON:**

But this is the contract that Suffolk County signed with them; they agreed to this. So it's --

**MR. AMMIRATI:**

Right.

**CHAIRMAN SPENCER:**

So I guess when we look at that board, it's a union representative. And you don't have a voting -- so to me, I understand, I appreciate that they're in a position to manage on behalf of their unions, but this is complex. So it's not necessarily that they're making the best decisions, but they're empowered to make the judgment on behalf of the entire County. That seems very concerning to me.

**LEG. TROTTA:**

You would think the unions would want to make it as efficient as possible, so they don't have to give up their -- you know, \$17 million. So I would think they would try to do it, but it's not working?

**MR. LIPP:**

Well, once again, we can't say to what extent it's working until approximately June.

**CHAIRMAN SPENCER:**

Counsel, do we have any -- with regards to the current EMHP Board, can we as a Legislature make changes to that board, or make changes to their policies? I mean, we obviously --

**MR. NOLAN:**

I think -- I know I've had these conversations, I believe with Jeff Tempera, in the past where I think the membership, it's equally divided between the bargaining -- you know, the various unions and management, and I think that is negot -- actually, the makeup of the Board may be a negotiated item as well. Because when I've talked to Jeff Tempera about that in the past about what the Legislature can do, you know, at least his opinion was we couldn't because it's something that is negotiated between the Executive and the unions and they determine the makeup of that particular board and they make the determinations in terms of medical and pharmaceutical.

**MS. HOFFMAN-BEECHKO:**

May I?

**MR. AMMIRATI:**

Yeah, I just want to add. Initially we were instructed last year. We had a meeting specifically with the Suffolk County Policemen Benevolent Association, Noel DiGerolamo, and it was my understanding that he was the chief decision maker in selecting WellDyne and any of the other plans and we had a sit-down with him, myself and a couple of representatives. And I just wanted to let you know -- you know, clear the air, that that was the original person, as far as I knew, that was making those decisions. And my understanding is that they are currently looking to allow the County employees to go back to specifically independent pharmacies, but the problem is is that they want to reimburse at that AWP minus 24-and-a-half, which as Joanne and Ruby both concurred, is going to be totally unsustainable.

**CHAIRMAN SPENCER:**

Do they have the same reimbursement for their own mail order houses? Are they asking for this -- do they have to abide by that same AWP minus 24?

**MR. AMMIRATI:**

They won't release that, that's privileged information. I can't comment on that.

**MR. HOFFMAN-BEECHKO:**

If I may advise you on that. There's information in your packets also with regards to PBM transparency. And to pull a little bit of the pressure off of the union negotiating, the PBMs are not required to release all of their intricacies as to how they make these contracts and where the money is going. So when they present to the union, *Well, we can save you \$17 million. Last year your cost was such and such and this year it's going to be this much less*, they do not, oftentimes, present how they're going to do that or how they're going to be transparent about the cost movement. So in your packets, there are ten to 15 clear questions that can be asked of any PBM before a contract is signed that clearly forces them to show you, show you the money, show you the pathway of the monies for prescription coverage.

**CHAIRMAN SPENCER:**

Our Presiding Officer has a question.

**P.O. GREGORY:**

Thank you, Mr. Chair. And thank you, guys, for coming today. I would imagine that this is not a new model, right? There are other, probably, counties and municipalities that have done this throughout the country. Is there some type of study that shows the effectiveness or ineffectiveness of going to the mail order model?

**MS. HOFFMAN-BEECHKO:**

There are -- NCPA has many studies that show, and I believe even the CMS has spoken to the fact that the mail order has not necessarily saved monies. I could try and get more clear information to you on that if you would like, so I'll look into it for you if you'd like. But there are studies out there that do not indicate that mail order preserves more dollars for the community, nor does it offer benefit for health care in the communities. And sometimes we have to look a little bit away, even though, you know, from the dollars sometimes to what it means for health care. Ruby indicated she's involved with Stony Brook right now, district, value-based services, reduction of emergency room revisits, reduction of rehospitalizations, and all of that has to do with health care members on the ground, in the community working with people one-to-one. So we can get the numbers to you, but that also has to be clearly kept in mind with regards to the health of Suffolk County.

**MR. AMMIRATI:**

Mr. Presiding Officer, JD Power and Associates did an independent audit about a year or two ago, you can look that up, but they did one on mail order and it's cost ineffectiveness; JD Power and Associates.

**P.O. GREGORY:**

Okay. Yeah, because I asked because I would imagine their business model is similar. You know, one mail order company's business model is very similar, I would imagine, to others. So if there's a study that shows that they're effective or ineffective is probably for the same reasons.

**MR. AMMIRATI:**

Right.

**P.O. GREGORY:**

You know, presumably. But the other question I have for you, you mentioned the letter about seeking status of the health care provider; who would that be to and what's the process and what's the benefit?

**MR. HOFFMAN-BEECHKO:**

To be considered a health care provider, as can be confirmed by my medical associate to the left, when you are a health care provider, when you are a health care recognized as a health care

provider, you can do billing for certain services that are provided to the community. It expands your opportunity to get involved in health care, to demonstrate cost efficacy of certain trends, certain patterns, certain things that should be done. As a health care provider, pharmacists could, in fact, intervene on behalf of a patient and suggests that a certain medication, perhaps with collaborative agreements with medical doctors, be changed for something else that may be of benefit. We recognize things every day with regards to the health of the individual, but not being a health care provider, we are currently just reimbursed on cost of drug, nothing more than that, plus our 45 cent dispensing fees. So we have very limited access to provide additional health care, which we do every day on a gratis method, to, in fact, enhance the health care system. So it's very important for us to get health care status providership.

**P.O. GREGORY:**

So what's the -- so the benefit to the pharmacies is to be able to get reimbursed for additional services that you already provide. Okay.

So what's the process and has -- have other pharmacies ever been identified as health care providers, or would this be talking totally new ground?

**MS. MASSON:**

We do have health care provider status in other states, California just got theirs last year, January of 2014, and there's I think 25 states that already have the health care provider status for pharmacists. CMS, originally they -- I guess it's Article 28, we are not included in there as a provider, whereas social workers, nurses aides and all of those are and we're not. A podiatrist is but a pharmacist is not, and yet we are giving a lot more services with the medical management therapy services and medication and trying to be with the health care team to provide better health options. So we need to be able to bill for those, be able to be recognized for those, and especially in the future, the way the DSRIP initiative is going, the value-based payment model is going, we need to be able to exert our speciality.

**P.O. GREGORY:**

Okay. So it's going to be State legislation.

**MS. MASSON:**

Yes.

**P.O. GREGORY:**

Okay. So it would be a letter to --

**MR. AMMIRATI:**

State and Federal both.

**MS. MASSON:**

So Department of Health and CMS.

**P.O. GREGORY:**

Okay. What's CMS?

**MS. MASSON:**

Centers for Medicare & Medicaid Services.

**P.O. GREGORY:**

Okay. So the difference for me -- you know, if I get sick, my doctor gives me a prescription and I go to a local pharmacy, *Here's the prescription*, I get it, I leave. How would this -- how would I see a change?

**MS. MASSON:**

As far as prescription filling?

**P.O. GREGORY:**

Yeah, as a patient.

**MS. MASSON:**

See a change.

**P.O. GREGORY:**

Okay.

**MS. MASSON:**

But any other services, counseling or the way the future of the health care system is going, we need to be able to talk to you, explain to you, monitor you.

**P.O. GREGORY:**

So you mean if I have like Obama Care or Affordable Care Act is going to change me, you would -- that would fall under the guise of this new identification; is that what you're saying?

**MS. MASSON:**

Yes.

**P.O. GREGORY:**

Okay.

**MR. HOFFMAN-BEECHKO:**

I would like to add also, I don't know if the members here use community pharmacies or if for they use more chain-oriented pharmacies. And some of them are terrific, depending upon the pharmacist that works behind the counter, but there's complete difference a corporate mentality as to what is to be provided to the community members and an independent community store which has to one-to-one direct relationship with its patients; I've had four generations of families that come to me. So the difference to you would be if I was actually able to be a health care provider and bill as a health care provider, and I did actually make more than the 85 cents that was coming in to me, I would have the time to actually sit with you, as I have done with patients on my own, for 45 minutes to discuss with them why, in fact, their medications aren't working appropriately, are they rinsing their mouth after their Advair inhaler? Are they -- and you can speak to Dr. Spencer about the different requirements of different medications; are they bleeding when they brush their teeth because their Coumadin level is been being monitored inappropriately or appropriately? I mean, there are many, many, many things that we can do as pharmacists and do do. Right now we're doing immunizations, many of the pharmacists are doing immunizations. Of course the fact that you can just walk in and get a shot is -- for a community, independent pharmacist, I don't appreciate that because my time is important and the appropriate way to do that is also important. I mean, you just can't come and get a shot and leave.

So there are lots and lots and lots of aspects to community care, independent community pharmacist care that is not recognized, not paid for. And when we're gone, which you have noticed, there's a decrease in the number of independent community pharmacies. During the storm, we were open; there were about six of us that were open. After Sandy, we were open. So, you know, we try to be there for the community. It's not just about the bottom line. I mean, we're here to say we need things done to help the bottom line, but it's not just about the bottom line. We're here for the community.

**P.O. GREGORY:**

Okay, last question, because I'm still trying to understand this process of being identified as a health care provider. So my doctor provides me a prescription, I go to the pharmacy to have it filled and you say, *Oh, no, no, no. You really don't need 20 milligrams, you need 10 milligrams.* How does that work out? Do you call the doctor? Is there -- am I understanding?

**MR. HOFFMAN-BEECHKO:**

So we, as pharmacists, are not allowed to and would never try to say to a patient, *You shouldn't be on 20 milligrams, you should be on 10 milligrams.*

**P.O. GREGORY:**

Okay.

**MR. HOFFMAN-BEECHKO:**

That is the -- that's the prescriber's job. They're the diagnosticians and we all crave the best of diagnosticians in our medical field, we know that. But we are the ones who when -- and it happens every day, no reflection on any of our medical people -- that prescriptions are not written appropriately or a patient goes to a different doctor, brings another drug in which is inappropriate with the rest of their medications that they're on, and we clearly and quickly identify that. Now, if it's sent away and if the process is always you're going to go to a giant place where only computers will determine or the drug is going to be mailed away and it's going to come to your house. We've heard many times of drugs being changed, going to mail order, being sent to a person's house, now the person has -- they not only have Crestor, which is for cholesterol, but they also have Lipitor in their house and they also have Zocor in their house and they're taking all of them because they don't know that. They don't know that they're not supposed to be taking the other drugs.

**MS. MASSON:**

Especially by the elderly.

**MS. HOFFMAN-BEECHKO:**

Yeah. I mean --

**P.O. GREGORY:**

And I guess the argument is because they have it, because they front load it? You know, if you have a three-month prescription, they'll give you the three months ahead. So if there's a change --

**MS. HOFFMAN-BEECHKO:**

Correct.

**P.O. GREGORY:**

You know, their benefit is they reduce the cost because they supply in bulk. So, you know, numbers really don't matter, because they have the numbers. So changing the level or the amount doesn't really matter to them, but it certainly matters to the patient, right? Because one, you have the wrong prescription; but two, you have all this -- potentially have all this excess prescription laying around your house, you know, for whatever reason that you don't need, right?

**MR. AMMIRATI:**

Duplicate therapy, yeah.

**MS. MASSON:**

The mail order pharmacist also entice the patient by offering them a three-month supply at a two-month copay rate, and yet retail pharmacists cannot waive copays or discount copays or anything.

So already, you know, there is bias over there.

**P.O. GREGORY:**

Okay.

**MS. MASSON:**

And the patient may think they're saving money, but when it comes to changing dosages, they're actually spending a lot more out of pocket, because they just got something for \$20 or whatever and now it's changed to something else, so they really wasted the \$20. So this is not seen, you know, this is not appreciated. And really mail order, this is why it is not so cost effective.

**P.O. GREGORY:**

Okay.

**MR. HOFFMAN-BEECHKO:**

You also mentioned something about all the excess. There have been lots of take-back programs here in Suffolk County and across the country and the amount of waste of medication is enormous. And when they looked at that, the amount that comes from mail order is enormous, and I have patients that come in all the time and they bring me bottles and bottles of medications that they show me that have been sent to them. There are new bills on the horizon to not send -- the government is taking a hold of some of this, you cannot send medications out unless you confirm with the patient; in fact, they want that. But there's also no accountability. So if a company is sending out, who's tracking that? Who's making sure that they're not sending out before calling the patient? So the purpose of keeping things on a more local level, when you talk about health care, health care has to be one-to-one. It has to be one-to-one. It's not like ordering a book on-line, I'm sorry.

**P.O. GREGORY:**

Okay. Thank you.

**MS. MASSON:**

I'd like to bring something to your attention. Many of these pharmacies, mail order pharmacies are out of state. So even if we do make a law here, a New York State law, they'll say that does not apply to them. We've heard that already with CVS Caremark. So we had tried to pass the anti-mandatory mail order back in 2012 and Governor Cuomo signed that into effect, it went into effect but nobody really abided by it because they just blatantly said, "*These laws do not apply to us because we are not New York State.*" So really, by giving away our businesses to other states, we cannot always make them do what we want.

**MR. AMMIRATI:**

In a nutshell, we're just trumped by the Federal laws.

**CHAIRMAN SPENCER:**

Legislator Browning.

**LEG. BROWNING:**

Okay. Robert, maybe we could go back. It was, I believe, in the contract, in one of the union contracts or was it EMHP, that they would realize a \$17 million savings, okay. If they don't realize that savings, where is that going to be made up? Who's -- who now has to fill that cost?

**MR. LIPP:**

Yeah, this is very interesting. That's why I said, this is probably one of the bigger issues for the County's budget this year. Because in theory, I believe the consultant looked at the mail order as

the low hanging fruit, and that's due to my words, I'm not sure what the alternatives would have been. But at the end of the day I'm assuming that, only because they didn't choose other types of savings. So for instance, if they find that it's as much as 17 million times two, or \$34 million for '13 and '14 that weren't realized -- I'm not saying that's the case, that's an extreme case -- then on paper it would appear that the bargaining units would have to pony up other types of savings to make that difference up. I don't get how they would do it. I mean, I have some ideas in my head about ways to do it, but I'd rather not speak to them because I don't want to presuppose policy at this point. But it will be very interesting, and I still go back to the idea that we really don't know to what extent all the savings took place, none of the savings, someplace in-between or maybe dissavings until approximately June.

**LEG. BROWNING:**

Okay. And you've been to the EMHP meetings, obviously you're not a voting member. So were you involved during the discussions of going with this PBM and doing this whole thing? Because I know it was Express Scripts, and I guess there was no savings with Express Scripts, and now they went to WellDyne. And WellDyne, obviously we don't have a response. I think -- I don't know why we really would have to wait till June. I don't know why we couldn't ask the Comptroller to start saying, *Okay, we're already how many months in the WellDyne that we couldn't really look at it.*

**MR. LIPP:**

The problem is the look-back, if you will, to my understanding, is supposed to be by the EMHP consultant Lockton, not the Comptroller.

**LEG. BROWNING:**

Okay. But the Comptroller is the one who did the audit on Express Scripts, right?

**MR. LIPP:**

Yes, but this is something that's written into the agreement between the Administration and the bargaining units and that there will be a look-back to make the determination, and it is my understanding that Lockton will be doing that.

**LEG. BROWNING:**

Okay. So that's \$17 million savings, if they don't -- if we don't see \$17 million in savings, then there's going to have to be some kind of concessions by the unions which could potentially -- and I'll say it -- could be layoffs, could be anything.

**MR. LIPP:**

Well, the layoffs are impossible right now because the current agreement with AME --

**LEG. BROWNING:**

No, I get that.

**MR. LIPP:**

-- in 2016 no layoffs.

**LEG. BROWNING:**

Right, I get that. But there could be other concessions somewhere --

**LEG. CALARCO:**

They'll come from the health care plan, that's where it's going to come from.

**LEG. BROWNING:**

Yeah, it's going to come from somewhere. It's going to hurt somebody.

**MR. LIPP:**

It could be higher copays; it could be tear up the old agreements, which is highly unlikely, and make everybody pay a premium. You know, this is all speculation. And if the number is a very large number, it's beyond me how the bargaining units would be able to come up with it. There could be lawsuits. It's going to get very interesting. This is going to be an interesting issue for this year.

**LEG. BROWNING:**

Okay. And I've got another question, I don't know who here can answer that question. These Pharmacy Benefit Managers, because I know we've sat down, and after sitting with you guys, I think my head was spinning after we had that conversation, because I was floored at what you guys were telling me. And these Pharmacy Benefit Management companies, whatever they are, who are they? Who created them? I mean, I'm trying to get really some more -- who are these people? Who are -- who's controlling this? I mean, if you could provide me with information on who the individuals are that are making these decisions.

**CHAIRMAN SPENCER:**

Historically what happened, Kate, was that when insurance companies were providing, I guess, benefits to people, as they got bigger and bigger there were some things, you know, they were like paying hospital costs, they were paying doctor visits. And so certain things like radiology and pharmacies and things like that, to try initially for savings and to prevent fraud, waste and abuse, they started with these third party organizations. They said, *Hey, wait a minute. We're collecting data*, and they collected data for a number of years, *and we know how many people are using this particular drug and we can save you money because we can negotiate with the manufacturers and get a better price because we can buy in bulk, we know how much --*

**LEG. BROWNING:**

No. No, I know.

**CHAIRMAN SPENCER:**

That's kind of how -- historically, that's how they got started.

**LEG. BROWNING:**

Right. But who -- okay. So there must be a board of people making the decision, correct; yes, no?

**MS. MASSON:**

Currently --

**LEG. BROWNING:**

So who are these board members? Where do they come from? Who are they associated with? So currently who the PBM is that we have right now.

**MS. MASSON:**

Right now what does come to mind is CVS, which was just a plain pharmacy. Okay, it was just a pharmacy, chain pharmacy organization. However, they went and bought out Caremark which is the benefit manager. Now, this big merger happened, which is really against anti-trust laws, and yet it was allowed to happen. And now chain pharmacies, CVS owns Caremark, okay, and now -- so now they are working as one, so they have a major place in the market. They get to make the decisions, they have their own mail order pharmacies, they have their own wholesalers, they have their own manufacturing places, it's all theirs, Caremark, it's CVS'.

**LEG. BROWNING:**

But Caremark is a PBM. So basically Caremark is the one person in the room who makes all the decisions.

**MS. MASSON:**

Right. It's owned by CVS, so CVS really.

**LEG. BROWNING:**

Right.

**MS. MASSON:**

And then on the other hand, there was another big merger between Metco and Express Scripts that was more recent, and again the same thing happened there. Metco, United Health Care, it was under United Health Care, and they also have their own mail order pharmacies. They also have their own agreements with manufacturers and are the two major -- these two were separate PBMs and they got together into another huge monstrous PBM, so they get to decide everything. The two biggest ones are CVS Caremark and Express Scripts.

**LEG. BROWNING:**

But which PBM is dealing with WellDyne and with Suffolk County and our plan?

**CHAIRMAN SPENCER:**

WellDyne.

**LEG. BROWNING:**

Is WellDyne their own, too?

**MR. AMMIRATI:**

Yeah.

**CHAIRMAN SPENCER:**

Their own PBM, yeah.

**LEG. BROWNING:**

And do they a board? Do they -- I mean.

**MR. HOFFMAN-BEECHKO:**

WellDyne is its own PBM, OptumRx was one of the PBMs that Suffolk County was looking to go to. There are many PBMs across the country and there are some that are considered more transparent than other PBMs where you actually can see the passage of funds and expenses and charges, and there are PBMs that are less transparent. But to answer your question directly, it has become the entity that it is today because of no regulation of them as an entity.

**CHAIRMAN SPENCER:**

So it's interesting, because if Ford and Chevrolet wanted to get together, the Federal government would have to approve it because they would make up a monopoly and be able to control prices. So this is kind of because they were dealing with two different sort of business models. So one of the things we could probably do as a body of local government might be to solicit the Justice Department to say you need to investigate these bodies. I don't know, I shouldn't probably be speaking allowed on the record, but it seems that that's part of the issue, that when we look at like Apple and Microsoft wanted to get together, they would have to get approval; or AT&T, when they merge, they have to get approval to be able to do that. But this seems to be kind of a loophole by having these benefit managers merge with large insurance companies or large pharmacy chains, and it is, but it seems to be an unlevel marking field, playing field there.

So, you know, again, I'm not comfortable with I guess saying too much on the public record, but I think that this just -- that seems to be what potentially the concern should be, but I would need to get more information to confirm if what I'm saying is correct.

In any case, thank you all. I mean, you can see from the level of discussion that once you finished your presentation an hour ago, to get an hour of questions and answers, that you have our attention. We'll be looking at the follow-up of those audit reports and we'll also work within ourselves, especially looking at potentially a letter asking or showing our support for pharmacists to be recognized as providers. And then also addressing the issue of just the other level playing field from the standpoint of disclosure, sunlight, laws, passing on the same bargain that they pass on to themselves. Is there a conflict of interest, that how can you be the benefit manager and be the dispenser at the same time while really given just a really poor deal to the current dispensers that are out there. And these are all very important questions that this Legislative body, and it seems that to protect our own employees, our union employees and everything else, that you've opened up a lot of potential questions that we'll have to follow-up on.

So I thank you for your time. Definitely, my office will be working with you, we'll be in touch to address some of these steps. And I'll be working with our Presiding Officer and Majority Leader and all of our colleagues to be able to see if we can address what appears to be a very gross inequity in business within Suffolk County. So thank you. Thank you very much.

**MS. MASSON:**

May I just add one last thing?

**CHAIRMAN SPENCER:**

Sure.

**MS. MASSON:**

You just said they should offer the same terms to us. However, we cannot forget that they -- their buying power is very different from our buying power. So if they get something at a much lower cost, we cannot sustain that. So it cannot be exactly the same; either they come up or we go down.

**CHAIRMAN SPENCER:**

Right, right.

**MS. MASSON:**

It has to be at that level, not just what they are currently getting.

**CHAIRMAN SPENCER:**

Right, right, but on both sides of the coin, which means that you would be able to get it at the same rate that they get it at, so that's what we're saying. You know, it either has to be disclosed, and especially when it comes to the consumer, that the consumer can say that if you go to your local pharmacy, you're going to pay a much bigger amount out of pocket. That to me seems to be a major constituent issue. So thank you. Thank you for your time.

With that, I have no other business before this committee today. I appreciate all of my colleagues attention and, you know, we thank you. And with that, motion to adjourn. We are adjourned. Thank you very much.

**(\*The meeting was adjourned at 3:25 P.M. \*)**